

EXHIBIT Q

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN HOSPITAL ASSOCIATION, *et al.*,

Plaintiffs,

v.

ALEX. M. AZAR, in his official capacity as
Secretary of Health and Human Services,

Defendant.

Civil Action No. 14-cv-00851 (JEB)

DEFENDANT'S STATUS REPORT

Pursuant to the Court's 2018 Order (ECF No. 89), the Secretary of Health and Human Services ("HHS") provides this status report to inform the Court that HHS remains on track to meet the reduction targets set forth in the Court's Order. Attached to this status report are statistics concerning, *inter alia*, the backlog of appeals at the Office of Medicare Hearings and Appeals ("OMHA") as of the end of the first quarter of FY 2020. *See* Medicare Appeals Dashboard, Exhibit 1. By the end of the first quarter of 2020, a total of 268,115 appeals remain pending at OMHA, which is a 37% reduction from the starting number of appeals identified in the Court's 2018 Order (426,594 appeals).

Dated: March 25, 2020

Respectfully submitted,

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/s/ Nicholas Cartier
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Medicare Appeals Dashboard

FY 2020 Q1

Reporting Period: Through Quarter 1 of FY 2020 (December 31, 2019)
(Data in Appeals)

Level 3 - OMHA	Fiscal Year						Most Recent 6 Quarters					
	FY 2020	FY 2019	FY 2018	FY 2017	FY 2016	FY 2015	FY 2020	FY 2019				FY 2018
							Qtr.1	Qtr.4	Qtr.3	Qtr.2	Qtr.1	Qtr.4
Beginning Workload Balance	292,517	417,198	578,683	675,530	886,418	767,422	292,517	318,254	343,658	379,831	417,198	483,401
Receipts	7,560	43,887	62,762	112,933	184,240	240,360	7,560	11,744	7,989	10,195	13,959	17,132
RAC	242	485	774	13,782	35,527	47,929	242	181	97	76	131	113
non-RAC	7,318	43,402	61,988	99,151	148,713	192,431	7,318	11,563	7,892	10,119	13,828	17,019
Appeals Removed	(31,962)	(168,568)	(224,247)	(209,780)	(395,128)	(121,364)	(31,962)	(37,481)	(33,393)	(46,368)	(51,326)	(83,335)
OMHA Dispositions	(28,280)	(119,848)	(92,113)	(82,240)	(87,123)	(78,881)	(28,280)	(26,301)	(29,570)	(31,490)	(32,487)	(24,146)
RAC	(3,880)	(15,708)	(24,690)	(26,054)	(33,511)	(15,586)	(3,880)	(3,707)	(4,434)	(4,021)	(3,546)	(5,293)
non-RAC	(24,400)	(104,140)	(67,423)	(56,186)	(53,612)	(63,295)	(24,400)	(22,594)	(25,136)	(27,469)	(28,941)	(18,853)
SCF (non-add) ⁷	(16)	(14,021)	(57,097)	(3,208)			(16)	(129)	(4,243)	(2,860)	(6,789)	(4,555)
Appeals combined for efficiency	(3,020)	(25,339)	(29,248)	(10,426)	(39,375)		(3,020)	(3,796)	215	(8,065)	(13,693)	(29,248)
QIC demo - remands for resolution	(656)	(14,243)	(20,175)	(22,505)	(2,387)		(656)	(4,168)	(3,176)	(5,888)	(1,011)	(3,996)
Serial Claims Initiative	0	(3,076)	(2,574)				0	(961)	(579)	(746)	(790)	(432)
Low Volume Appeals	(1)	(5,784)	(20,817)				(1)	(2,231)	(282)	(174)	(3,097)	(20,817)
Hospital Settlements	(5)	(278)	(2,223)	(91,401)	(246,243)	(42,483)	(5)	(24)	(1)	(5)	(248)	(111)
Inpatient Rehab Facility Settlement (non-add)	(160)	(6)					(160)	(6)				
Net Pending Receipt Increase / (Decrease)	(24,402)	(124,681)	(161,485)	(96,847)	(210,888)	118,996	(24,402)	(25,737)	(25,404)	(36,173)	(37,367)	(66,203)
Ending Workload (pending appeals)	268,115	292,517	417,198	578,683	675,530	886,418	268,115	292,517	318,254	343,658	379,831	417,198

1/ FY20 Qtr.1 includes the majority of appeals received through December 31, 2019.

2/ Receipts and dispositions have been updated due to appeal adjustments such as combinations, deletions, and/or corrections.

3/ Receipts exclude reopened appeals but include appeals involved in CMS Hospital Settlements.

4/ The number of appeals adjudicated each fiscal year reflects receipts from multiple fiscal years.

5/ Dispositions exclude remands.

6/ OMHA Dispositions reflect appeals removed by all types of adjudicators.

7/ Starting in FY19, appeals removed through Settlement Conference Facilitation (SCF) are included in OMHA Dispositions at a 1:1 ratio. Appeals combined for efficiency have been restated for FY19 due to SCF data adjustments.

8/ FY15 through FY18 reflect changes in methodology to include combined appeals. Discrepancies between Level 2 and Level 3 RAC receipts are largely attributable to these changes in methodology.

9/ Appeals combined for efficiency result in one disposition for a group of combined appeals. This line accounts for the remainder of received appeals that were combined into single appeals within disposition counts.

10/ Initiative dispositions not reflected separately within the table are counted in "OMHA Dispositions" (as 1 disposition if multiple appeals were combined), and "Received appeals combined for efficiency" (remainder of groups of appeals combined for efficient disposition).

11/ OMHA combines appeals to improve the efficiency of our ALJs. This includes a large number of Lincare dismissals. In FY18 OMHA dismissed 8,382 Lincare appeals. That number rose to 27,607 Lincare appeals in FY19.

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DEFENDANT'S STATUS REPORT

Pursuant to the Court's November 1, 2018 Order (ECF No. 89), the Secretary of Health and Human Services ("HHS") provides this status report to inform the Court that HHS remains on track to meet the reduction targets in the Court's November 1 Order. Attached to this status report are statistics concerning, *inter alia*, the backlog of appeals at the Office of Medicare Hearings and Appeals ("OMHA"), updated to reflect data received during the fourth quarter of FY 2018. *See* Medicare Appeals Dashboard, Exhibit 1. As this attachment reflects, there were 417,198 appeals pending at the end of the fourth quarter, and there were only 774 RAC-related appeals that reached OMHA during FY 2018.

Dated: December 21, 2018

Respectfully submitted,

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Medicare Appeals Dashboard

Reporting Period: Through Quarter 4 FY 2018
(Data in Appeals)

Level 3 - OMHA	Fiscal Year							Most Recent 6 Quarters					
	FY 2018	FY 2017	FY 2016	FY 2015	FY 2014	FY 2013	FY 2012	FY 2018			FY 2017		
								Qtr 4	Qtr 3	Qtr 2	Qtr 1	Qtr 4	Qtr 3
Beginning Workload Balance	578,683	675,530	886,418	767,422	380,696	75,922	20,382	483,401	494,490	518,475	578,683	604,370	657,728
Receipts	62,762	112,933	184,240	240,360	474,063	384,151	117,068	17,132	17,752	10,985	16,893	26,213	27,186
RAC	774	13,782	33,527	47,929	229,381	193,159	20,331	113	159	127	384	1,360	2,897
non-RAC	61,988	99,151	148,713	192,411	224,680	190,992	86,737	17,019	17,602	10,858	16,509	24,853	23,889
Appeals Removed	(224,247)	(209,780)	(395,128)	(121,364)	(87,337)	(79,377)	(61,528)	(83,335)	(28,841)	(34,970)	(77,101)	(51,900)	(80,544)
OMHA Dispositions	(92,113)	(82,240)	(83,365)	(78,390)	(87,337)	(79,377)	(61,528)	(24,146)	(24,276)	(23,345)	(20,344)	(20,793)	(20,579)
RAC	(24,690)	(26,054)	(31,842)	(15,225)	(28,104)	(17,739)	(12,357)	(3,293)	(3,893)	(6,890)	(6,622)	(6,453)	(4,622)
non-RAC	(67,423)	(56,186)	(52,723)	(63,165)	(59,233)	(61,638)	(49,171)	(18,853)	(18,383)	(16,465)	(13,722)	(14,340)	(15,957)
Appeals combined for efficiency	(37,743)	(10,426)	(56,821)	(3,220)				(37,743)				(10,426)	
Settlement conference facilitation - incl. States	(37,097)	(3,209)	(3,912)	(2,192)				(4,385)	(1,083)	(3,200)	(46,229)	(884)	(2,324)
QIC demo - remands for resolution	(20,175)	(22,505)	(2,387)					(3,996)	(2,623)	(3,082)	(10,474)	(5,622)	(3,497)
Serial Claims Initiative	(2,574)							(432)	(310)	(1,378)	(24)		
Low Volume Appeals	(12,322)							(12,322)					
CMS Hospital Settlements	(2,223)	(91,401)	(246,243)	(37,562)				(111)	(347)	(1,763)	0	(14,175)	(54,144)
Net Pending Receipt Increase / (Decrease)	(161,485)	(96,847)	(210,888)	118,996	386,726	304,774	55,540	(66,203)	(11,089)	(23,985)	(60,208)	(25,687)	(53,358)
Ending Workload (pending appeals)	417,198	578,683	675,530	886,418	767,422	380,696	75,922	417,198	483,401	494,490	518,475	578,683	604,370

1/ Receipts exclude reopened appeals but include appeals involved in CMS Hospital Settlements.

2/ The number of appeals adjudicated each fiscal year reflects receipts from multiple fiscal years.

3/ Dispositions exclude remands.

4/ OMHA Dispositions reflect appeals removed by all types of adjudicators, and by all initiatives except those listed in the table above.

5/ Some FY14 dispositions are attributable to Scooter Store dismissals.

6/ FY14 through FY18 reflect changes in methodology to include combined appeals.

7/ FY18 Qtr 4 includes the majority of appeals received through September 30, 2018.

8/ Receipts and dispositions have been updated due to appeal adjustments such as combinations, deletions, and/or corrections.

9/ Appeals combined for efficiency result in one disposition for a group of combined appeals. This line accounts for the remainder of received appeals that were combined into single appeals within disposition counts.

10/ Initiative dispositions not reflected separately within the table are counted in "OMHA Dispositions" (as 1 disposition if multiple appeals were combined), and "Received appeals combined for efficiency" (remainder of groups of appeals combined for efficient disposition).